

C-6188
10/09/07

ADOT JPA File No.: JPA 07-072
A.G. Contract No.: P001-2007-003709
Project: US 60 (Grand Avenue)
Section: 71st Avenue – 43rd Avenue
MIS II, Phase I
TRACS No.: H7292 01D
Budget Source Item No.: 42209

**CITY CLERK
ORIGINAL**

INTERGOVERNMENTAL AGREEMENT

BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF GLENDALE

THIS AGREEMENT is entered into January 17, 2008, pursuant to Arizona Revised Statutes, § 11-951 through § 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF GLENDALE, ARIZONA, acting by and through its CITY MANAGER and CITY COUNCIL (the "City"). The State and the City are collectively referred to as "Parties".

I. RECITALS

1. The State is empowered by Arizona Revised Statute § 28-401 to enter into this Agreement and has delegated to the undersigned the authority to execute this Agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statute § 48-572 to enter into this Agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this Agreement and has authorized the undersigned to execute this Agreement on behalf of the City.

3. The State has programmed funds for design of improvements to US 60 (Grand Avenue) from 71st Avenue to 43rd Avenue in fiscal year (FY) 2009 and anticipates construction in FY 2010, hereinafter referred to as the "Project". Incident to said Project, the City desires to accelerate the preparation and funding of the Design Concept Report (DCR), the 30% design plans and the environmental documents within the scope of the Maricopa Association of Governments' Major Investment Study II, Phase 1, for the Project. The City will also purchase the necessary rights of way for the Project. The State will reimburse the City for the DCR, design plans and environmental documents within the scope of the Maricopa Association of Governments' Major Investment Study II, Phase 1, in its scheduled program years, as shown on Exhibit A, attached hereto and made a part hereof. The State will not reimburse the City for work outside the scope of said Study. The purpose of this Agreement is to define each party's responsibilities under this Agreement.

NO. 29589
Filed with the Secretary of State
Date Filed: 1-17-08

Secretary of State
By:

4. The parties hereto agree and acknowledge the following conditions: a) The estimated amounts referenced in this Agreement are subject to change and can change substantially before completion of the Project, b) Both parties will perform their responsibilities consistent with this Agreement; c) Any change or modification to the Project will only occur with the mutual written Agreement of the City and the State.

THEREFORE, in consideration of the mutual agreements expressed herein, it is agreed as follows:

II. SCOPE OF WORK

1. The City will:

a. Upon execution of this agreement, coordinate with the State to retain and contract with design and environmental consultants (the "Consultants") to provide for the development of the DCR, the 30% design plans and the environmental documents for the Project, herein referred to as the "Preliminary Documents".

b. Prepare, to State standards, all Preliminary Documents and provide to the State for review and comment. Incorporate State comments, as appropriate.

c. Administer the Consultants' contracts and make all payments to the Consultants. Confer with the State on any pre-design and environmental consultant-related contract modifications. Be responsible for any pre-design and environmental consultant claims for extra compensation attributable to the City.

d. Be responsible for purchasing the necessary rights of way for the Project and conveying said rights of way to the State, all at the City's expense, except that, if a property must be condemned solely for Grand Avenue improvements, the property will be acquired by the State.

e. On or after July 1, 2008, invoice the State for the lump sum amount not to exceed \$1,000,000.00 for the cost to prepare the Preliminary Documents.

2. The State will:

a. Upon execution of this agreement, participate with the City in the Consultant hiring process.

b. Review the Preliminary Documents and provide comments to the City, as appropriate. Confer with the City on any pre-design and environmental consultant-related contract modifications. Be responsible for any pre-design and environmental consultant claims for extra compensation attributable to the State.

c. On or after July 1, 2008 and, upon receipt of an invoice from the City, remit a lump sum amount not to exceed \$1,000,000.00, for the cost to prepare the Preliminary Documents.

d. Acquire any property needed solely for Grand Avenue improvements that must be acquired through condemnation.

III. MISCELLANEOUS PROVISIONS

1. The terms, conditions and provisions of this Agreement shall remain in full force and effect until completion and reimbursements provided herein. This Agreement may be terminated by either party at any time upon sixty (60) days written notice to the other party. It is understood and agreed that, in the event the City terminates this agreement, the State shall in no way be obligated to proceed with said Project until its programmed fiscal year.

2. This Agreement shall become effective upon filing with the Secretary of State.
3. This Agreement may be cancelled in accordance with Arizona Revised Statutes § 38-511.
4. The provisions of Arizona Revised Statutes § 35-214 are applicable to this Agreement.
5. This Agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this Agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona, and incorporated herein by reference, regarding "Non-Discrimination".
6. **Non-Availability of Funds.** Every payment obligation of the State under this Agreement is conditioned upon the availability of funds appropriated, or allocated, for the payment of such obligation. If funds are not allocated and available for the continuance of this Agreement, this Agreement may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated, or liable, for any future payments, or for any damages, as a result of termination under this paragraph.
7. In the event of any controversy, which may arise out of this agreement, the parties hereto agree to abide by required arbitration, as is set forth for public works contracts in Arizona Revised Statutes § 12-1518.
8. All notices, or demands, upon any party to this Agreement shall be in writing and shall be delivered in person, or sent by mail, addressed as follows:

For Contract Issues:

Arizona Department of Transportation
Joint Project Administration
205 South 17 Avenue, MD 616E
Phoenix, AZ 85007
FAX: (602) 712-7424

City of Glendale
City Manager's Office
5850 West Glendale Avenue
Glendale, AZ 85301
FAX: (623) 847-1399

For Billing Issues:

Arizona Department of Transportation
Cost Accounting
206 South 17 Avenue, MD 204B
Phoenix, AZ 85007
FAX: (602) 712-8471

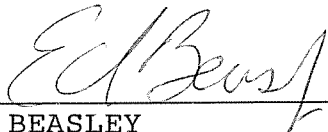
City of Glendale
Finance
5850 West Glendale Avenue
Glendale, AZ 85301
FAX: (623) 915-2827

10. Pursuant to Arizona Revised Statutes § 11-952, (D), attached hereto and incorporated herein, is the written determination of each party's legal counsel that the parties are authorized under the laws of this State to enter into this Agreement and that the Agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

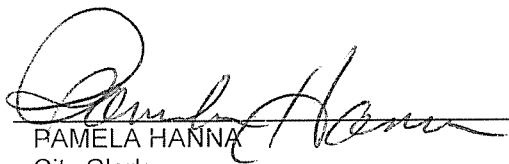
CITY OF GLENDALE
a Municipal Corporation

STATE OF ARIZONA
Department of Transportation

By 
ED BEASLEY
City Manager

By 
SAM MAROUFKHANI, P.E.
Deputy State Engineer

ATTEST

By 
PAMELA HANNA
City Clerk

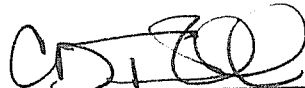
ATTORNEY APPROVAL FORM FOR THE CITY OF GLENDALE

I have reviewed the above referenced Intergovernmental Agreement between the State of Arizona, acting by and through its DEPARTMENT OF TRANSPORTATION, and the CITY OF GLENDALE, an Agreement among public agencies which, has been reviewed pursuant to A.R.S. § 11-951 through § 11-954 and declare this Agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

No opinion is expressed as to the authority of the State to enter into this Agreement.

DATED this 3rd day of December, 2007.

Approved as to form:



Craig Tindall
City Attorney

RESOLUTION NO. 4097 NEW SERIES

A RESOLUTION OF THE COUNCIL OF THE CITY OF GLENDALE, MARICOPA COUNTY, ARIZONA, AUTHORIZING AND DIRECTING THE ENTERING INTO OF AN INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA DEPARTMENT OF TRANSPORTATION TO COMPLETE A DESIGN CONCEPT REPORT FOR GRAND AVENUE BETWEEN 43RD AND 71ST AVENUES.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF GLENDALE as follows:

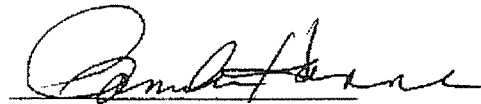
SECTION 1. That it is deemed in the best interest of the City of Glendale and the citizens thereof that an Intergovernmental Agreement between the City of Glendale and the Arizona Department of Transportation be entered into, which agreement is now on file in the office of the City Clerk of the City of Glendale.

SECTION 2. That the Mayor or City Manager and the City Clerk be authorized and directed to execute and deliver said agreements on behalf of the City of Glendale.

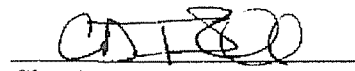
PASSED, ADOPTED AND APPROVED by the Mayor and Council of the City of Glendale, Maricopa County, Arizona, this 9th day of October, 2007.


MAYOR

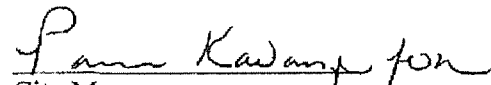
ATTEST:



City Clerk (SEAL)

APPROVED AS TO FORM:


City Attorney

REVIEWED BY:


City Manager

<p>TERRY GODDARD Attorney General</p>	 <p>OFFICE OF THE ATTORNEY GENERAL STATE OF ARIZONA</p>	<p>CIVIL DIVISION TRANSPORTATION SECTION Writer's Direct Line: 602.542.8855 Facsimile: 602.542.3646 E-mail: Susan.Davis@azag.gov</p>
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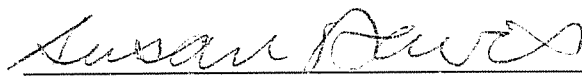
INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A.G. Contract No. P0012007003709 (**JPA 07-072-I**), an Agreement between public agencies, i.e., The State of Arizona and The City of Glendale, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: January 7, 2008

TERRY GODDARD
Attorney General


SUSAN E. DAVIS
Assistant Attorney General
Transportation Section

SED:mjf:116131
Attachment